

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

WP(C).No. 20301 of 2005(P)

PETITIONER:

N.BALAKRISHNAN, S/O.NARAYANAN ACHARY,
DWARAKA, ERATHUKULAKADA, KALAYAPURAM VILLAGE,
KOLLARAKARA, KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL
SMT.MEREENA JOSEPH

RESPONDENTS:

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1. THE SUPERINTENDENT OF POLICE,
POLICE HEAD QUARTERS, KOLLAM.
 2. THE CIRCLE INSPECTOR OF POLICE,
KOTTARAKARA, KOLLAM DISTRICT.
 3. THE SUB INSPECTOR OF POLICE,
KOTTARAKARA, KOLLAM.
 4. VASANTHA VIJAYAN, PUTHENVILA VEEDU,
ERATHUKULAKKADA, KULAKKADA P.O.,
KOTTARAKARA, KOLLAM DISTRICT.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR
GOVERNMENT PLEADER ADV.SRI. S.U. NAZER
ADV. D.JAYACHANDRAN FOR R4

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 07/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT.P1: THE TRUE COPY OF THE FIR IN CRIME NO.94/05 OF KOTTARAKARA POLICE STATION
- EXHIBIT.P2: THE TRUE COPY OF THE REPORT DATED 30/1/2005 FILED BY THE 3RD RESPONDENT BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT -I, KOTTARAKARA.
- EXHIBIT.P3: THE TRUE COPY OF THE FINAL REPORT DATED 19/3/05 FILED BY THE 3RD RESPONDENT
- EXHIBIT.P4: THE TRUE COPY OF THE JUDGMENT IN W.P (C) NO.9601/05 DATED 23/3/2005 OF THIS HON'BLE COURT
- EXHIBIT.P5: THE TRUE COPY OF THE COMPLAINT AND ORDER OF THE 1ST RESPONDENT DATED 25/5/2005
- EXHIBIT.P6: THE TRUE COPY OF THE APPLICATION AND ORDER OF THE LEARNED MAGISTRATE DATED 10/6/05.

(TRUE COPY)

R.BASANT, J

W.P(C).No.20301 of 2005

Dated this the 7th day of February, 2007

JUDGMENT

The petitioner is the 1st accused and he faces allegations, inter alia, under Sections 354, 427 I.P.C. A crime was registered on the basis of a complaint filed by the 4th respondent and it was registered as Crime No.94 of 2005, inter alia, under Section 379 I.P.C also. After completing the investigation, final report was filed by the investigator. In such final report, some of the accused shown in the F.I.R were dropped from the array of parties and allegations under Section 379 I.P.C was not raised against the accused.

2. Aggrieved by such a final report filed by the investigator, the petitioner had approached this Court and this Court by Ext.P4 order had directed that the petitioner's grievance be considered by the Superintendent of Police and the officer in charge of the police station. Thereupon, Ext.P6 report was filed before the learned Magistrate seeking leave for further investigation under Section 173 (8) Cr.P.C. That petition was allowed as per the endorsement made on Ext.P6. It is at this stage that the petitioner has come to this Court with the present Writ Petition to assail the order passed by the learned Magistrate granting permission for further investigation under Section 173(8) Cr.P.C.

3. What is the reason ? The learned counsel for the petitioner submits that absolutely no new material has been discovered by the investigator and in these circumstances, the prayer for leave for further investigation under Section 173(8) Cr.P.C is not justified.

4. I must alertly note that I am called upon to invoke the extra ordinary inherent jurisdiction under Section 482 Cr.P.C. Has justice failed ? Is there miscarriage of justice ? These are the crucial questions which have to be considered by the Court when a prayer for invocation of the extraordinary inherent jurisdiction under Section 482 Cr.P.C is made before it. Such powers cannot be invoked as a matter of course. Sufficient and compelling reasons must be shown to exist.

5. I shall scrupulously avoid any detailed discussion on merits of the rival contentions, lest any unintended impressions may be conveyed. Suffice it to say that after considering all the relevant inputs, I am not persuaded to agree that the impugned order, under which the investigator's request for permission to conduct further investigation was allowed, does not suffer from any vice which would justify invocation of the powers under Section 482 Cr.P.C. By such further investigation, the interest of the petitioner will not in any way suffer any prejudice.

6. This Writ Petition is, in these circumstances, dismissed.

(R.BASANT, JUDGE)

rtr/-